IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 25TH JANUARY 2007 / 5TH MAGHA 1928

Crl.MC.No. 210 of 2007()

CC.4149/2005 of JUDL.MAGISTRATE OF FIRST CLASS-I, ERNAKULAM

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PETITIONER:

SOURABH RAJ, AGED 23,
S/O. MAHESH PRASAD, PIPRASI VILLAGE,
JAJA POST OFFICE, JAMMUI DISTRICT, BIHAR,
RESIDING AT THE HOUSE OF K.S. PILLA,
PERUNNAYIL SHAKTI HOUSE, CHENGANASSERY.

BY ADV. SRI.C.D.JOHNY
SRI.P.SHAIJAN JOSEPH

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY S.I. OF POLICE, CITY TRAFFIC,
EAST EDAPPALLY, KOCHI THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.P.RAVINDRA BABU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.210 of 2007

Dated this the 25th day of January, 2007

ORDER

The grievance of the petitioner is that the prosecution under Section 279 and 304 A I.P.C initiated against him pending before the J.F.M.C-I, Ernakulam is not being disposed of. The alleged incident took place on 22.03.2005. On 30.12.05, the accused appeared and plea was recorded. Though on 12.01.2006 summons was ordered to Cws 1 to 7, trial has not commenced yet. He is a student of B.Tech. course in the Cochin University at Kottayam Study Centre. His course is unlikely to be completed by April, 2007. If the case against the petitioner is not disposed of by April, 2007, that would cause him great prejudice and hardship. In these circumstances, it is prayed that there may be a specific direction for early disposal of the case against the petitioner.

2. The request of the petitioner appears to be justified. An accused is certainly entitled for an expeditious disposal of the case against him. Right to speedy trial is certainly an incident of Human Rights. But has the petitioner made such an application before the learned Magistrate ? Admittedly he has not. Why has he come to this Court without and before making a request before the learned Magistrate ? I find no satisfactory answer forthcoming. It is certainly

for the petitioner to bring to the notice of the learned Magistrate the need for an expeditious disposal of his case by taking it up out of turn. In fact, the order dated 12.01.2006, according to the petitioner, is that summons be issued to the witnesses. Therefore it would appear that the turn for trial has already come.

3. It is for the petitioner certainly to move the learned Magistrate for an expeditious trial. In the facts and circumstances of the case, I find no reasons why the learned Magistrate should not accept the said request. The petitioner must move the learned Magistrate at the first instance. If the learned Magistrate does not choose to conduct an expeditious trial, then only the petitioner can move this Court.

4. This Crl.M.C is, in these circumstances, dismissed, but with the above specific observations.

5. Hand over a copy of this order to the learned counsel for the petitioner for production before the learned Magistrate.

(R.BASANT, JUDGE)

rtr/